

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7437

BILL NUMBER: SB 446

NOTE PREPARED: Jan 9, 2009

BILL AMENDED:

SUBJECT: Manufacturer or Distributor Unfair Practice.

FIRST AUTHOR: Sen. Head

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: Local

Summary of Legislation: This bill provides that an automotive manufacturer or distributor commits an unfair practice when the manufacturer or dealer takes an adverse action against an automotive dealer because the dealer sold or leased a vehicle to a customer who exported the vehicle to a foreign country or who resold the vehicle, with certain exceptions.

Effective Date: July 1, 2009.

Explanation of State Expenditures:

Explanation of State Revenues: *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *Penalty Provision:* A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

Background Information: A dealer who is injured by an unfair practice may sue for relief in court and may recover damages or may receive injunctive relief, or both, and may recover the cost of the suit, including reasonable attorney's fees. Also, if a manufacturer, converter manufacturer, or dealer violates or causes a violation of IC 9-23-6-6, the manufacturer's or dealer's license may be suspended or revoked.

State Agencies Affected: Secretary of State.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

Fiscal Analyst: James Sperlik, 317-232-9866.